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Security Council

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Letter dated 19 May 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Sao Tome and Principe submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Counter-Terrorism Committee

03-37521 (E) 050603

Annex

Note verbale dated 13 May 2003 from the Permanent Mission of Sao Tome and Principe to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Sao Tome and Principe to the United Nations presents its compliments to the Counter-Terrorism Committee of the Security Council and has the honour to submit a letter from the Minister for Justice, State and Public Administration Reform, Justino Tavares da Veiga, transmitting the report of the Democratic Republic of Sao Tome and Principe, as required by Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Letter dated 2 May 2003 from the Minister for Justice, State and Public Administration Reform of Sao Tome and Principe addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Please find attached the report of the Democratic Republic of Sao Tome and Principe, as required by Security Council resolution 1373 (2001) (see appendix).

I would like to express our appreciation for the work undertaken by the Counter-Terrorism Committee.

May I take this opportunity to reiterate the country's need for technical assistance in order to properly build capacity for our human and institutional resources.

(*Signed*) Justino **Tavares da Veiga**
Minister for Justice, State and Public
Administration Reform

Appendix

Report of Sao Tome and Principe to the Counter-Terrorism Committee

The Democratic Republic of São Tomé and Príncipe (STP) would like to express its apologies for the delay in the submission of this report. Lack of human resources and proper knowledge of the subject matter, coupled with frequent reshuffle of cabinets, have not made it possible to collect the necessary information in order to draft this report. STP, however, remains available and will do everything in its capacity to provide the CTC with any additional clarification.

STP considers acts of international terrorism as a scourge to mankind, and is committed to take any possible steps to improve channels of cooperation on a bilateral, regional and multilateral level. Recent terrorist attacks and a number of other internal factors reinforce the need and urgency for STP to adopt a comprehensive legal framework to combat terrorism.

First, it should be recalled that STP has itself experienced some criminal activities that could be considered terrorist acts such as a grenade being launched against the premises of the former president as well as demonstrations degenerating into violence. Authorship has not been claimed and the competent authorities are still investigating the cases.

Whereas up to now STP has enjoyed an economic and social environment free of terrorism threats, imminent oil fields exploitation will increasingly pose new challenges for the Government.

STP has started to carry out a review of its legal framework. A constitutional reform has been initiated through Act N.1/2003, which is now triggering other necessary reforms.

Given the fact that STP has so far relied on the Portuguese legislation, a Criminal Code of its own is now envisaged. The procedural penal code is ready for approval by the National Assembly.

As a small island, so far untouched by transnational criminal activities, STP will greatly need technical assistance to enhance capacity building of its human and institutional resources.

Operative paragraph 1

1 a) What measures if any have been taken to prevent and suppress the financing of terrorist acts?

STP is in the process of drafting special legislation against terrorism. In this context, a specific article on the financing of terrorism is being prepared, taking into account the elements of the offence described in art. 2 of the International Convention for the Suppression of the Financing of Terrorism (1999) as well as in Operative Paragraph 1 (b) of the Security Council Resolution 1373 (2001).

1 b) What are the offences and penalties in your country with respect to acts of terrorist financing?

Art. 263 of the Criminal Code covers "criminal association". It also punishes as accomplices those who supply arms, munitions or any other means. It thus appears to be broad enough to cover also the activity of providing financial assistance to a terrorist organisation.

However, the Government of STP recognises the importance of having in place a specific criminal provision for terrorist financing. In the draft legislation referred to above, an article would specify the serious nature of the offences and the heavy penalty to be applied.

1 c) What legislation and procedure exist for freezing accounts and assets at banks and financial institutions?

The Ministry of Justice is in the process of drafting legislation on money laundering. The draft law would provide for administrative and judicial mechanisms necessary to freeze funds and proceeds of crime. The proposal even shifts the burden of proof to the suspect.

However, once the legislation on money laundering is enacted, the Government shall require technical assistance in order to establish the necessary procedures, including the establishment of a Financial Intelligence Unit, and proper training for law enforcement officials in various matters, including special investigative techniques on financial transactions.

1 d) What measures exist to prohibit the activities listed in this subparagraph?

As mentioned above, this issue is going to be addressed in the specific legislation against terrorism.

Operative paragraph 2

2 a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit the recruitment to terrorist groups and the supply of weapons to terrorists?

Concerning the recruitment of members of terrorist organisations, art. 263 of the Criminal Code punishes criminal associations and treats as accomplices all those who provide these associations with arms, munitions or any other means. Although there is not any specific mention of recruitment, it appears that the broad language of art. 263 would cover it.

As to the supply of arms to terrorists, art. 253 of the Criminal Code punishes the manufacturing, import and trade in arms and explosives to be used against people or buildings. The same article punishes those who trade or provide arms without the necessary administrative authorization.

Furthermore, all preparatory acts, including the supply of arms and the recruitment of members, will be criminalized when the new legislation against terrorism is in force.

2 b) What other steps are being taken to prevent the commission of terrorist acts?

As stated in the introductory note, STP has so far experienced only sporadic acts of domestic terrorism. As a result, no specific steps or legislation have been taken in this direction. However, the Government is well aware of possible threats, and is determined to respond to it, despite the chronic lack of financial, technical and human resources.

2 c) What legislation or procedure exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph?

STP strongly supports the principle "no safe heaven for terrorists". It should be stressed that art. 41(1) of the Constitution of STP, which prohibits the extradition of nationals, will not constitute an obstacle to the application of the principle *aut dedere aut judicare*. The draft legislation against terrorism also contains an explicit reference to the obligation to submit the case for immediate domestic prosecution if extradition is refused.

2 d) What legislation or procedure exist to prevent terrorists acting from your territory against other states or citizens?

Please refer to subparagraph 2 b).

2 e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

As mentioned above, STP basically relies on the text of the Portuguese Criminal Code whose original version dates back to 1886. In addition, a number of separate acts dealing with specific offences form the legal framework in criminal matters.

National legislation does not specifically provide for the punishment of terrorist offences. If the need should arise, ordinary provisions of the criminal code would most likely be applied to terrorist-like activities.

For example, Chapter IV punishes a number of acts related to arson and damaging of properties.

Whereas the provisions of the Criminal Code are clearly applicable to a number terrorist-like activities, STP recognises the importance to enact a specific anti-terrorist legislation. In performing this task, it is currently being assisted by the UNODC for drafting a comprehensive piece of legislation against terrorism, which will criminalize the activities described in the twelve universal anti-terrorism instruments.

2 f) What procedures and mechanisms are in place to assist other States?

STP has concluded bilateral agreements with Portugal, Cuba and Angola covering judicial cooperation in criminal matters. Such agreements also contain provisions on extradition.

STP is part of Interpol, though under precarious conditions due to lack of proper equipment and financial means. Sometimes it shares with Portugal some information related to extradition.

In addition, law enforcement cooperation takes place in the framework of both the CPLP (Comunidade de Países de Lingua Portuguesa) and the OEAC (Organização Econômica da Africa Central).

2 g) How do border controls in your country prevent the movement of terrorists?

Border control in STP is the responsibility of the Immigration Service and the Coastal Guards. Customs and immigration officers jointly perform control of persons and goods at the only existing airport. The geographical features of the State, coupled with reduced numbers of guards, makes its coasts extremely vulnerable. STP does not currently have the necessary material or human resources for guaranteeing effective control of its borders.

Operative paragraph 3

3 a) b) c) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in theses subparagraphs?

Please refer to subparagraph 2 f).

STP is convinced that effective fight against terrorism crucially requires addressing its links with organised crime and drug trafficking. The determination of STP to give its contribution in this area is already witnessed by the ratification of all the three UN drug- related conventions.

Additionally, the Government has prepared a technical note to be submitted to the Assembly requesting, as a matter of priority, accession to the UN Convention against Transnational Organised Crime and its three additional Protocols. It must be recognised, however, that proper implementation of this instrument will require technical assistance as well as training for judges, prosecutors and police officers, for there is total lack of experience in matters related to mutual legal assistance and extradition.

3 d) What are your government's intention regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

STP is in the process of ratifying the twelve international instruments against terrorism, as required by the Security Council Resolution 1373. Once such instruments enter into force, they are automatically incorporated into the national legal system. The recently reviewed Constitution of STP will be applied to the extent that "duly approved and ratified international conventions and agreements" also take priority over all domestic legal acts. The Constitution expressly states that conventions and international treaties are applicable in the legal system of STP upon their publication in the Official Journal.

3 e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph

As stated above, the government of STP is drafting special legislation against terrorism that criminalizes all the offences described in the twelve universal instruments against terrorism, and establishes the jurisdiction of the courts of STP in all required cases.

3 f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status?

STP is party to the 1951 Convention on the status of refugees and it is also aware that its provisions cannot serve as safe haven for people suspected or convicted of terrorist acts.

3 g) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures, which prevent claims of political motivation being recognised as grounds for refusing requests for extradition of alleged terrorists.

It is the firm intention of the Government to ensure that the constitutional provision of STP (art. 41, par.2), which states that extradition cannot be granted in relation to political offences, will by no means be used to shield terrorists in STP territory, and will consequently not be applicable to terrorist crimes. The draft legislation against terrorism would contain a specific article addressing this issue.

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23 May 2003

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Letter dated 22 May 2003 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a copy of the statement of the National Security Council of Georgia, of 19 May 2003, on the implementation of the agreements reached at the Sochi meeting of 6 and 7 March 2003, between the Presidents of Georgia and the Russian Federation in the context of the settlement of the conflict in Abkhazia, Georgia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Revaz **Adamia**
Ambassador
Permanent Representative

03-37158 (E) 280503 280503

Annex to the letter dated 22 May 2003 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

[Original: Russian]

Statement by the National Security Council of Georgia

The National Security Council of Georgia met on 16 May of this year and considered, together with other matters, the question of the implementation of the agreements reached at the meeting of the Presidents of Georgia and the Russian Federation held in Sochi on 6 and 7 March 2003.

As is well known, at the Sochi meeting, the Presidents laid down in connection with the problem of Abkhazia specific tasks, whose implementation will promote a political settlement of the conflict and help to carry out of the decisions adopted on 18 and 19 February 2003 in Geneva by the Group of Friends of the Secretary-General.

Among the agreements reached in Sochi, the issues of the restoration of railway communication between Georgia and the Russian Federation and, in parallel, the organized and dignified return of refugees and forcibly displaced persons under safe conditions to their places of residence are most important. The implementation of these agreements can be viewed as an important practical step towards a peaceful settlement of the conflict in Abkhazia.

At the same time, the National Security Council of Georgia deems it necessary to express its concern in connection with a trend that has come about since the meeting in question. This relates, in particular, to attempts to remove separate parts from the entire set of the Sochi agreements, specifically, the restoration of railway communication between Georgia and the Russian Federation, in order not to fulfil or to fulfil only partially the agreement on the parallel return of the refugees and forcibly displaced persons.

The National Security Council of Georgia states with full responsibility that, in spite of the importance of restoring railway communication, it is impossible to carry out this idea in isolation — the railway must be rehabilitated only in parallel with the other processes of settling the conflict.

Furthermore, for the railway line to function, it is certainly necessary to ensure the appropriate security conditions. In this regard, decisive importance is attached precisely to the start of the process of the return of the expelled and forcibly displaced persons. The return of the expelled persons will also help to provide the railway infrastructure with qualified personnel.

Taking all this into account, the Presidents made a statement which clearly indicates the link between the processes of the restoration of railway communication and the return of the forcibly displaced persons.

The recent increasingly frequent visits by high ranking representatives of the authorities of the Russian Federation and statements that are openly directed against the unity and territorial integrity of the Georgian State have also given rise to concern. Such actions can only lead to a worsening of Georgian-Russian relations

and slow down the process of finding a political solution to the conflict in Abkhazia, which does not meet the interests of either Georgia or the Russian Federation.

For the members of the National Security Council of Georgia, an interpretation in any form of the agreements reached in Sochi and only their partial "selective" implementation are totally unacceptable. Any step to restore railway communication taken on a unilateral basis, without agreement with the Georgian side and before the start of the process of the organized and safe return of the expelled population is illegal and directed against the agreement by the Presidents. In the case in question, the National Security Council of Georgia reserves the right to demand appropriate explanations and to take adequate measures.